

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF \_\_\_\_\_

\_\_\_\_\_ JUDICIAL DISTRICT

\_\_\_\_\_  
(*Plaintiff/Petitioner*)  
PLAINTIFF/PETITIONER,  
vs  
\_\_\_\_\_  
(*Defendant/Respondent*)  
DEFENDANT/RESPONDENT. )

Case No. \_\_\_\_\_

AFFIDAVIT FOR SERVICE  
BY PUBLICATION

I, \_\_\_\_\_, the  
undersigned, being first sworn, on my oath state as follows:

1. I am the ☐Plaintiff / ☐Petitioner (*choose one*) in the above entitled action.
2. I make this Affidavit for Service by Publication in support of service of process upon the  
☐Defendant / ☐Respondent (*choose one*), \_\_\_\_\_  
(*name*) by publication pursuant to Rule 4(e) of the North Dakota Rules of Civil Procedure.
3. Pursuant to Rule 4(e)(1), service by publication is permitted because the ☐complaint /  
☐petition (*choose one*) in the above entitled action is based on the following situation(s):

4. I made the following diligent efforts to locate the ☐Defendant / ☐Respondent (*choose one*) in order to serve the summons and ☐complaint / ☐petition (*choose one*) in the above entitled action:

5. I made the following attempts to serve the ☐Defendant / ☐Respondent (*choose one*):

6. I state that:

☐ After diligent inquiry personal service of the summons cannot be made on the  
☐Defendant / ☐Respondent (*choose one*) in this state to the best knowledge,  
information, and belief of the affiant;

**OR**

☐ The ☐Defendant / ☐Respondent (*choose one*) is a domestic corporation that has  
forfeited its charter or right to do business in this state or has failed to file its annual  
report as required by law;

**OR**

☐ The ☐Defendant / ☐Respondent (*choose one*) is a domestic or foreign corporation  
and has no officer, director, superintendent, managing agent, business agent, or  
other agent authorized by appointment or by law on whom service of process can be  
made on its behalf in this state;

**OR**

☐ All persons having or claiming an estate or interest in, or lien or encumbrance on, the  
real property described in the complaint, whether as heirs, devisees, legatees, or  
personal representative of a deceased person, or under any other title or interest,  
and not in possession, nor appearing of record in the office of the register of deeds,  
the clerk of the district court, or the county auditor of the county in which the real  
property is situated, to have such claim, title or interest in the property, are  
proceeded against as unknown persons defendant under N.D.C.C. Chs. 32-17 or 32-  
19, and state the following facts to satisfy the requirements of those Chapters:

7. The last, reasonably ascertainable address of the ☐Defendant / ☐Respondent (*choose one*) is: \_\_\_\_\_.

8. I state, under penalty of perjury, that the information contained in this Affidavit for Service by Publication, is true and correct.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Address) (City, State, Zip Code) (Telephone Number)

Signed and sworn to before me on \_\_\_\_\_, 20\_\_\_\_\_ by

\_\_\_\_\_.

\_\_\_\_\_  
(Notary Public or Clerk of Court)

If Notary, my commission expires: \_\_\_\_\_

## INSTRUCTIONS FOR AFFIDAVIT FOR SERVICE BY PUBLICATION

ND Legal Self Help Center Staff and Court employees cannot help you fill out forms. If you are unsure how to proceed, consult a lawyer.

There is no guarantee that all judges and courts will accept forms available through the ND Legal Self Help Center.

Do not include these instruction sheets when you serve or file the completed form.

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The Service link on the ND Legal Self Help Center website ([www.ndcourts.gov/ndlshc](http://www.ndcourts.gov/ndlshc)) has additional information and resources about serving documents in a civil action.

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An affidavit is a written statement of fact made under oath. The affidavit must be signed in the presence of a notary public by the individual making the statement.

An affidavit for service by publication is a required document for service by publication. See [Rule 4\(e\) of the North Dakota Rules of Civil Procedure](#) for the requirements.

### Parties:

Parties to a Complaint – Plaintiff and Defendant

The party who starts a civil action with a summons and complaint is called the Plaintiff. The party who is served with a summons and complaint requesting civil legal action against them is called the Defendant.

Parties to a Petition – Petitioner and Respondent

The party who starts a civil action with a summons and petition is called the Petitioner. The party who is served with a summons and petition requesting civil legal action against them is called the Respondent.

### Top of Affidavit:

- ☐ Complete the top of the Affidavit exactly as it appears in the Plaintiff's complaint/Petitioner's petition.
- ☐ Fill in the case number, if known. If the action has not been filed, the case number will be assigned by the clerk of court when the action is filed.

### First Sentence:

- ☐ Fill in your full, legal name. The Plaintiff/Petitioner completes and signs this affidavit.

**Paragraph 1:**

- ☐ Put a checkmark (✓) next to either Plaintiff or Petitioner. DO NOT put a checkmark in both boxes.

**Paragraph 2:**

- ☐ If you are the Plaintiff, put a checkmark (✓) next to Defendant. If you are the Petitioner, put a checkmark (✓) next to Respondent.
- ☐ Fill in the full, legal name of the Defendant or Respondent.

**Paragraph 3:**

- ☐ Put a checkmark (✓) next to either complaint or petition. DO NOT put a checkmark in both boxes.
- ☐ Review Rule 4, Section e, Subsection 1 (Rule 4(e)(1)). Service by publication is only allowed in the situations listed in Rule 4(e)(1).
- ☐ List all of the situations from Rule 4(e)(1) that apply to your circumstances and allow you to serve by publication.

**Paragraph 4:**

- ☐ Put a checkmark (✓) next to either Defendant or Respondent. DO NOT put a checkmark in both boxes.
- ☐ Put a checkmark (✓) next to either complaint or petition. DO NOT put a checkmark in both boxes.
- ☐ List your efforts to locate the Defendant or Respondent. Be specific.

**Paragraph 5:**

- ☐ Put a checkmark (✓) next to either Defendant or Respondent. DO NOT put a checkmark in both boxes.
- ☐ List your attempts to serve the Defendant or Respondent. Be specific with details, including dates and the results. If you have documentation of the attempts, you may include when you file the Affidavit.

**Paragraph 6:**

- ☐ Put a checkmark (✓) next to the box(es) that fit your situation. You must select at least one statement. If the statement(s) requires, put a checkmark (✓) next to either Defendant or Respondent. DO NOT put a checkmark in both boxes.
- ☐ If you select the 4<sup>th</sup> option, review North Dakota Century Chapters [32-17](#) and [32-19](#). You must determine which chapter fits your situation and state the facts to satisfy the requirements of the chapter.

**Paragraph 7:**

- ☐ Put a checkmark (✓) next to either Defendant or Respondent. DO NOT put a checkmark in both boxes.
- ☐ Fill in the last, reasonably ascertainable address of the Defendant or Respondent.

**Sign and Date the Affidavit:**

- ☐ You must sign and date the Affidavit in the presence of a notary public or clerk of court.

**Do not include these instruction sheets when you serve or file the completed form.**

*The North Dakota Legal Self Help Center provides resources to people who represent themselves in civil matters in the North Dakota courts. The information provided by the Center is not intended for legal advice but only a general guide to the court process. The Center is not responsible for any consequences that may result from the information provided. The information cannot replace the advice of competent legal counsel licensed in the state.*